

United States District Court

C. MARK CAPISTRANO,
Plaintiff,

V.

THE BANK OF NEW YORK MELLON
FKA THE BANK OF NEW YORK, AS
TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE CHL
MORTGAGE PASS THROUGH TRUST
2007-11, MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-11, ET AL.,
Defendants.

§ § § § § § § § § § § § § § § §

Civil Action No. 4:16-CV-00871
(Judge Schell/Judge Johnson)

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On April 3, 2017, the report of the Magistrate Judge (Dkt. #19) was entered containing proposed findings of fact and recommendations that the Motion to Dismiss filed by Defendants The Bank of New York Mellon fka The Bank of New York, as Trustee for the Certificateholders of the CHL Mortgage Pass-Through Trust 2007-11, Mortgage Pass-Through Certificates, Series 2007-11 (“BONY”), Mortgage Electronic Registration Systems, Inc. (“MERS”), New Penn Financial, LLC dba Shellpoint Mortgage Servicing (“Shellpoint”), and Resurgent Mortgage Servicing, a division of Resurgent Capital Services, LP (“Resurgent”) (collectively, “Defendants”) ((Dkt. #8) be granted.

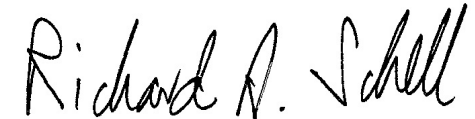
Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that Motion to Dismiss (Dkt. #8) is **GRANTED**, and Plaintiffs' claims are **DISMISSED** with prejudice.

All relief not previously granted is **DENIED**. The Clerk is directed to **CLOSE** this civil action.

IT IS SO ORDERED.

SIGNED this the 3rd day of May, 2017.

A handwritten signature in black ink, reading "Richard A. Schell". The signature is written in a cursive, flowing style. The first name "Richard" is written with a large, prominent "R". The middle initial "A." is written in a smaller, more compact script. The last name "Schell" is written with a large, sweeping "S" and a distinct "ll" at the end.

RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE